

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



ADVISORY OPINION NO. 216

This advisory opinion is in response to a letter requesting advice from the Ethics Commission as to whether a conflict of interest would be created if the vice-president of a development company serves as a member of the Building Board of Appeals.

The Commission understands the facts relative to this inquiry to be as follows:

Mr. A has served one term on the Building Board of Appeals and has been reappointed by the Mayor. He has become a vice-president of a development company, with responsibility for the development and management of projects.

The Building Board of Appeals' responsibilities as identified in Section 16-1.1 of the Revised Ordinances of Honolulu 1978 (1983 Ed.) are: to hear and determine appeals from the decisions of the Building Official in the administration of the City and County of Honolulu's Building, Electrical, Plumbing, and Housing Codes and the section of Fees and Permits; to hear and determine appeals from the decisions of the Fire Official in the administration of the City and County of Honolulu's Fire Code; and to hear and determine petitions for variances to the Building, Electrical, Plumbing, and Fire Codes. The Board deals with no confidential information.

The ethical question presented is whether Mr. A's present employment as a vice-president of a development company would automatically create a conflict of interest with his position as a member of the Building Board of Appeals.

The general rule in relation to this question is found in the Revised Charter of the City and County of Honolulu 1973 (1984 Ed.) [RCH], Section 11-102.3 which states in pertinent part:

No elected or appointed officer or employee shall... [e]ngage in any business transaction or activity or have a financial interest, direct or indirect, which is incompatible with the proper discharge of such person's independence of judgment in the performance of such person's official duties.

Based on the information presented, the Commission finds that a conflict of interest is not automatically created by Mr. A's position as a vice-president of the development company. However, he would be required to recuse himself from considering any appeals or petitions for variances sought by the development company or any related legal entity. Like all other board

members, he would also be expected to recuse himself from any considerations of matters before the Building Board of Appeals in which a one-time conflict of interest exists.

The letter also asked for "the current Ethics Commission policy regarding disclosure and when conflicts of interest should lead members of boards and commissions to abstain from voting on particular items or issues." The policy in regard to disclosure of conflicts of interests is found in the Standards of Conduct in Section 11-103, RCH. The Ethics Commission takes the position that persons should recuse themselves from consideration of any matters in which they have a conflict of interest. A copy of a form developed by the Ethics Commission to facilitate such disclosures is attached.

Enclosure

Dated: April 14, 1992

JANE B. FELLMETH
Chair, Ethics Commission